

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

SEAN COTTLE, et al.,

Plaintiff,

vs.

DOUG GILLESPIE, et al.,

Defendants.

Case No. 2:10-CV-00271-JCM-(PAL)

**ORDER**

Presently before the court is plaintiff Sean Cottle's motion to proceed in forma pauperis on appeal. (Doc. #25). Pursuant to 28 U.S.C. § 1292(b), there is no fee for interlocutory appeals unless the appeal is allowed. Accordingly, plaintiff's motion to proceed in forma pauperis on appeal is denied as moot.

Also before the court is plaintiff's motion to stay (doc. #37) the case pending resolution of his appeal to the Ninth Circuit (*see* doc. #24). On February 11, 2011, the Ninth Circuit entered an order dismissing the appeal for lack of jurisdiction. (Doc. #3 in Ninth Circuit case no. 11-15171). Accordingly, this issue is now moot.

Finally before the court is plaintiff's motion identifying unserved defendants (doc. #38). On December 30, 2010, this court advised the plaintiff that if he wished to "have service again attempted on an unserved defendant(s), then a motion must be filed with the court identifying the unserved defendant(s) and specifying a more detailed name and/or address for said defendant(s), or whether some other manner of service should be attempted." (Doc. #21, p. 4). Plaintiff has followed

1 this court's order and provided more detailed names and addresses of the unserved defendants in his  
2 motion.


3 Accordingly,

4 IT IS THEREFORE ORDERED that plaintiff's motion to proceed in forma pauperis on  
5 appeal (doc. #25) is DENIED as moot.

6 IT IS FURTHER ORDERED that plaintiff's motion to stay (doc. #37) is hereby DENIED as  
7 moot.

8 IT IS FURTHER ORDERED that plaintiff's motion identifying unserved defendants (doc.  
9 #38) is hereby GRANTED. The clerk shall issue summons to the named defendants in document  
10 number 38 and deliver the same with copies of the amended complaint and the December 30, 2010,  
11 order (doc. #21) to the U.S. Marshal for service. Plaintiff shall have twenty (20) days in which to  
12 furnish to the U.S. Marshal the required Forms USM-285. Within twenty (20) days after receiving  
13 from the U.S. Marshal a copy of the Form USM-285 showing whether service has been  
14 accomplished, plaintiff must file a notice with the court identifying which defendants were served  
15 and which were not served, if any. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure,  
16 service must be accomplished within one-hundred twenty (120) days from the date that the amended  
17 complaint was filed.

18 DATED February 15, 2011.

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21 JAMES C. MAHAN  
United States District Judge  
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